

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

JUL 15 2019

Re: FOIA No. FY19-80
First Rolling Response

VIA E-MAIL AND REGULAR MAIL

Emma Best
MuckRock News
DEPT MR 73728
411A Highland Ave.
Somerville, MA 02144-2516
73728-41167949@requests.muckrock.com

Dear Ms. Best:

This is a response to your correspondence of May 29, 2019, in which you requested information pursuant to the Freedom of Information Act (FOIA),¹ and the Federal Energy Regulatory Commission's (Commission) FOIA regulations, 18 C.F.R. § 388.108 (2019). Specifically, you requested all documents in the agency's possession that pertain to the WikiLeaks website or organization from January 2006 to the date of this request including, but not limited to, emails, memos, notes, briefings, reports and other documents related to, mentioning or generated as a result of:

- (1) Guidance and instructions for employees regarding visiting the website otherwise reading or learning about it in the news
- (2) Internal reactions to the website's existence and disclosures
- (3) Damage reports regarding the website and its disclosures
- (4) Efforts to identify, investigate and/or mitigate potential leaks to the website
- (5) Efforts to identify, investigate and/or mitigate potential unauthorized viewing of the website or news reports analyzing it and/or its contents²

A search of the Commission's non-public files has identified numerous documents that may be responsive to this request. This response addresses 31 identified responsive documents. Nineteen documents are released in their entirety, and the remaining twelve documents are released with minor redactions. Specifically, the names and contact

¹ 5 U.S.C. § 552, *as amended* by the FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538 (2016).

² Per correspondence with the Commission, you agreed to narrow the scope of this request to be limited to the Office of the Executive Director.

information of lower-level Commission personnel have been redacted pursuant to FOIA Exemption 6.³ The documents are enclosed.

Given the volume of information requested and the amount of Commission staff time required to process any responsive documents addressing your request, additional determinations addressing the remaining documents will follow on a rolling basis.⁴ We will endeavor to provide you with another determination within twenty business days of the date of this letter.

Ordinarily, any appeal from a FOIA determination must be filed within 90 days of the date of issuance as provided by the Freedom of Information Act and 18 C.F.R. § 388.110(a)(1) of the Commission's regulations. However, because your request is being processed on a rolling basis, the Commission will hold your appeal rights in abeyance pending a final determination. This will allow you to file a single appeal at the conclusion of our processing of your request.

If you decide to appeal, this appeal must be in writing, addressed to James P. Danly, General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, and clearly marked "Freedom of Information Act Appeal." Please include a copy to Charles A. Beamon, Associate General Counsel, General and Administrative Law, at the same address.

You have the right to seek dispute resolution services from the FOIA Public Liaison of the agency or the Office of Government Information Services (OGIS). Using OGIS services does not affect your right to pursue your appeal. You may contact OGIS by email at ogis@nara.gov; telephone at (877) 684-6448; facsimile at (301) 837-0348; or by mail to the Office of Government Information Services, National Archives and

³ 5 U.S.C. § 552(b)(6) (protecting from disclosure files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.)

⁴ See *S. Yuba River Citizens League v. Nat'l Marine Fisheries Serv.*, No. Civ. S-06-2845, 2008 U.S. Dist. LEXIS 107177, 47 (E.D. Cal. June 20, 2008) (supporting the practice of releasing documents on a rolling basis); *Hinton v. Fed Bureau of Investigations*, 527 F. Supp. 223, 225 (E.D. Penn. 1981) (noting that rolling responses preserve the government's right to carefully review material while promoting FOIA's disclosure goals); see also U.S. Dept. of Justice, *FOIA Post*, "OIP Guidance: The importance of Good Communication with FOIA requesters," (posted 2010) (stating agencies should provide rolling responses for requests involving voluminous material).

Records Administration, Room 2510, 8601 Adelphi Road, College Park, MD 20740-6001.

Sincerely,

A handwritten signature in black ink that reads "Leonard M. Tao". The signature is written in a cursive, flowing style.

Leonard M. Tao
Director
Office of External Affairs

Enclosures (31)